

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

U.S. DISTRICT COURT NORTHERN DISTRICT OF TEXAS FILED SEP 17 2003 CLERK, U.S. DISTRICT COURT By _____ Deputy
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UNITED STATES OF AMERICA,

Plaintiff,

v.

DANIEL FISHER,
BRENDA MEYERS-FISHER,
EOTL SYSTEMS, INC.,
and TAX DYNAMIX, LLC,

Defendants.

Civil No. _____

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COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

Plaintiff, United States of America, for its Complaint states as follows:

Nature of Action

1. This action for injunctive relief is brought at the request of the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General of the United States, pursuant to §§ 7402, 7407 and 7408 of the Internal Revenue Code of 1986 (26 U.S.C.) (I.R.C.).

Jurisdiction and Venue

2. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345, and by I.R.C. §§ 7402(a), 7407 and 7408.

3. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391.

Defendants

4. Defendant Daniel Fisher resides at 4341 Horizon North Parkway, Dallas, Texas 75287.
5. Defendant Brenda Meyers-Fisher, the wife of Daniel Fisher, resides at 4341 Horizon North Parkway, Dallas, Texas 75287.
6. Defendant EOTL Systems, Inc. is incorporated under the laws of Texas with a mailing address of P.O. Box 3167, McKinney, Texas 75070. Brenda Meyers-Fisher is the registered agent on file with the state of Texas for EOTL Systems, Inc. Brenda Meyers-Fisher is also vice-president of EOTL Systems, Inc. EOTL Systems conducts business in Dallas, Texas. EOTL Systems was formerly known as "The Structured Advantage, Inc." (TSA). Brenda Meyers-Fisher is the registered agent on file with the State of Texas for TSA. According to corporate records filed with the state of Texas, Daniel Fisher is a "Director" of TSA. Upon information and belief, EOTL systems has also done business under the following names: "The Structured Advantage Group, Inc.," "The Structured Advantage of Texas, Inc.," "International Structured Water Technologies, Inc.," "Tidal Wave, Inc.," and "Go Worldnet, Inc."
7. On information and belief, defendant Tax Dynamix, LLC is the entity through which Daniel Fisher and Brenda Meyers-Fisher currently prepare and file federal income-tax returns on behalf of the defendants' customers. It is a domestic limited liability company registered under the laws of Texas, with a mailing address of 16950 N. Dallas Parkway, Suite 100, Dallas, Texas 75248. The Structured Advantage of Texas, Inc., is the registered agent on file with the State of Texas for Tax Dynamix, LLC. Tax Dynamix conducts business in Dallas, Texas.

Facts Common to all Counts

8. Defendants Daniel Fisher and Brenda Meyers-Fisher, individually and through TSA, EOTL Systems, and Tax Dynamix, organize and sell abusive tax schemes and prepare federal tax returns and other documents that enable their customers to conceal income and assets from the IRS and to unlawfully seek refunds of previously paid federal income and employment taxes.

9. Daniel Fisher is a financial planner and income-tax return preparer who holds himself out as an expert in tax law and “tax structuring.”

10. Brenda Meyers-Fisher’s involvement in the scheme includes signing some of the customers’ federal income-tax returns and amended returns as the preparer, and preparing the employment agreements, partnership agreements and lease agreements related to the scheme.

11. The defendants’ abusive tax scheme is primarily promoted to wealthy married couples. It involves the establishment of a sham partnership (or in some instances S-corporations) for the couple, which is made retroactive to prior years, and the assignment of individual income and assets to the partnership. Defendants prepare partnership (or S-corporation) information returns, falsely claiming personal expenses as business expenses. The defendants then prepare amended individual income-tax returns falsely claiming refunds of taxes previously paid. The scheme also involved the creation of some fraudulent Forms W-2 and 1099.

12. The Fishers, and others acting in concert with them through TSA, EOTL Systems, and Tax Dynamix, advise their customers to conceal income and assets from the IRS, improperly reduce or eliminate federal income taxes by taking improper deductions, and stop paying federal employment taxes. Specifically, defendants falsely advise customers that they can:

- establish a shell partnership with the husband and wife as the only partners;
- assign personal income, assets and expenses to the partnership, thereby reducing or eliminating income-tax liability (because they will no longer have income) and making personal expenses deductible (because these expenses will now be partnership expenses);
- transfer to the partnership a purported intangible asset based on their work experience, and amortize the purported asset, thereby ensuring a loss to the partnership which is then claimed on their personal income-tax returns;
- use the partnership form in this way to continue to use their personal assets and income just as they did before, yet avoid paying federal income taxes;
- defer or eliminate federal employment taxes by instructing their employers to pay wages directly to a sham “wealth management” entity and stop the withholding of employment taxes from wages; and
- obtain refunds of federal income and employment taxes already paid by filing amended federal income-tax returns claiming refunds based on participation in the scheme.

13. The Fishers, individually and through TSA, EOTL Systems, and Tax Dynamix, handle all of the paperwork required by the scheme on behalf of their customers. This includes preparing federal individual and partnership income-tax returns, and creating sham partnership agreements, employment agreements, and lease agreements. On information and belief, defendants even choose the names for their customers’ partnerships.

14. Brenda Meyers-Fisher and other agents of TSA, EOTL Systems or Tax Dynamix are the primary tax-return preparers for the scheme. Daniel Fisher reviews all returns prepared in furtherance of the scheme, makes all final changes to these returns, and has signed some of them as the return preparer.

15. Brenda Meyers-Fisher sends letters to customers’ employers directing them to pay all income “directly to [the customers’] management companies,” and to stop withholding payroll

taxes. These letters state that defendant TSA is “handling the financial restructuring” of the person in question, that they “should not have payroll tax taken out of their checks any longer,” and that all questions should be directed to Daniel Fisher.

16. Defendants charge their customers for participating in this scheme—typically a \$3500 initial fee and a 15-20% commission on all tax refunds generated. Customers also continue to pay a 15-20% commission on any future “tax savings” realized from the use of the scheme. To ensure that they receive their commission, defendants have had some of the erroneous tax refunds made to their customers deposited directly into bank accounts opened in the names of both the customer and TSA. Defendants take their fee from the account, and remit the remaining refund to the customer.

17. Defendants have sold their scheme to hundreds of customers and have filed hundreds of returns in conjunction with it. The IRS estimates the current tax loss to the Treasury as a result of this scheme at over \$5 million..

18. The Fishers continue to promote this abusive tax scheme and act as income-tax preparers.

Count I:
Injunction under I.R.C. § 7408 for promoting an abusive tax shelter
and aiding and abetting understatements of tax liability

19. The United States incorporates by reference the allegations in paragraphs 1 through 18.

20. I.R.C. § 7408 authorizes a court to enjoin persons who have engaged in any conduct subject to penalty under I.R.C. §§ 6700 or 6701 if the court finds that injunctive relief is appropriate to prevent the recurrence of such conduct.

21. I.R.C. § 6700 penalizes any person who organizes or sells a plan or arrangement and makes, in connection with organizing or selling the plan or arrangement, a statement regarding the excludibility of income that the person knows or has reason to know is false or fraudulent as to any material matter.

22. I.R.C. § 6701 imposes a penalty on any person who prepares or assists in the preparation of a return, affidavit, or other document that the person knows or has reason to believe will be used in connection with any material matter arising under the internal revenue laws, and that the person knows would result in an understatement of tax liability.

23. Defendants organize and sell abusive tax schemes. In organizing and selling their abusive tax schemes, defendants make false and fraudulent statements regarding the tax benefits available to customers who use their entity structure. Defendants know or have reason to know that these statements are false and fraudulent statements within the meaning of I.R.C. § 6700.

24. Defendants prepare and assist in the preparation of federal income-tax returns, amended federal income-tax returns, original partnership returns and other documents that they know or have reason to know will be used in connection with material matters arising under the internal revenue laws.

25. Defendants know that these returns and other documents will result in understatements of their customers' tax liabilities.

26. If they are not enjoined, defendants are likely to continue to organize and sell abusive tax schemes, and to prepare federal income tax returns and amended returns understating their customers' tax liabilities.

27. The United States is entitled to an injunction under I.R.C. § 7408 to prevent

defendants from engaging in conduct subject to penalty under I.R.C. §§ 6700 and 6701.

**Count II:
Injunction under I.R.C. § 7407 for violations of I.R.C. § 6694**

28. The United States incorporates by reference the allegations in paragraphs 1 through 27.

29. I.R.C. § 7407 authorizes a court to enjoin a person from acting as a return preparer if it finds that the return preparer has continually or repeatedly:

- a. engaged in conduct subject to penalty under I.R.C. § 6694, which penalizes a return preparer who prepares or submits a return that contains an unrealistic position, or I.R.C. § 6695, which penalizes a return preparer who fails to sign returns, include their identifying number, keep a list of clients, or turn over the client list to the IRS upon request;
- b. misrepresented his eligibility to practice before the IRS, or otherwise misrepresented his experience or education as a return preparer;
- c. guaranteed the payment of any tax refund or allowance of any credit; or
- d. engaged in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the Internal Revenue laws;

and the court finds that injunctive relief is appropriate to prevent the recurrence of such conduct and that a narrower injunction (*i.e.*, one prohibiting only specific conduct) would not be sufficient to prevent that person's interference with the proper administration of the internal revenue laws.

30. Defendants are paid federal income-tax-return preparers.

31. Daniel Fisher and Brenda Meyers-Fisher, individually and through TSA, EOTL Systems, and Tax Dynamix, have prepared on behalf of their customers numerous federal income-tax returns that understate or falsely eliminate the customer's federal income-tax liability

based on the defendants' abusive tax scheme. Defendants have also prepared on behalf of their customers numerous amended federal income-tax returns improperly requesting refunds of all federal income and employment taxes paid for multiple tax years based on the defendants' abusive tax scheme. Additionally, defendants have prepared sham partnership or subchapter S corporation income-tax returns for customers participating in the scheme, all of which contained an unrealistic position in violation of I.R.C. § 6694, and have created false and fraudulent IRS Forms 1099 and W-2 for customers.

32. If defendants are not enjoined under I.R.C. § 7407 from preparing or assisting in the preparation of tax returns and related documents, they are likely to continue interfering with the internal revenue laws.

Count III
Injunction under I.R.C. 7402(a) for Unlawful Interference
with Enforcement of the Internal Revenue Laws

33. The United States incorporates by reference the allegations in paragraphs 1 through 32.

34. I.R.C. § 7402 authorizes a court to issue orders of injunction as may be necessary or appropriate for the enforcement of the internal revenue laws.

35. Defendants, through the actions described above, have engaged in conduct that interferes substantially with the administration and enforcement of the internal revenue laws.

36. Defendants' conduct results in irreparable harm to the United States. Defendants' conduct is causing and will continue to cause substantial revenue losses to the United States Treasury, much of which may be unrecoverable.

37. If defendants are not enjoined, they are likely to continue to engage in conduct that

interferes with the enforcement of the internal revenue laws.

38. While the United States will suffer irreparable injury if the defendants are not enjoined, the defendants will not be harmed by being compelled to obey the law.

39. An injunction that stops defendants' illegal activity is in the public interest.

40. An injunction under § 7402(a) is necessary and appropriate.

41. Thus, the United States is entitled to injunctive relief under I.R.C. § 7402(a).

The United States requests the following relief:

A. That the Court find that defendants Daniel Fisher, Brenda Meyers-Fisher, EOTL Systems, Inc., and Tax Dynamix, individually and together, have engaged in conduct subject to penalty under I.R.C. §§ 6700 and 6701, and that injunctive relief is appropriate under I.R.C. § 7408 to prevent defendants, any business entity through which any or all may operate, and anyone acting in concert with any or all of them, from engaging in further such conduct;

B. That the Court find that Daniel Fisher, Brenda Meyers-Fisher, EOTL Systems, Inc., and Tax Dynamix, individually and together, have engaged in conduct subject to penalty under I.R.C. § 6694, and that injunctive relief is appropriate under I.R.C. § 7407 to prevent defendants, any business entity through which any or all may operate, and anyone acting in concert with any or all of them, from engaging in further such conduct and from preparing federal income-tax returns;

C. That the Court find that Daniel Fisher, Brenda Meyers-Fisher, EOTL Systems, Inc., and Tax Dynamix, individually and together, have engaged in conduct that interferes with the internal revenue laws, and that injunctive relief against them, any business entity through which any or all of them operate, and anyone acting in concert with any or all of them, is appropriate to

prevent the recurrence of that conduct pursuant to the Court's powers under I.R.C. § 7402(a);

D. That the Court, pursuant to I.R.C. §§ 7408, 7407 and 7402(a), enter a permanent injunction prohibiting Daniel Fisher, Brenda Meyers-Fisher, EOTL Systems, Inc., and Tax Dynamix, individually, together and doing business as or through any entity, and anyone acting in concert with them, from directly or indirectly:

- (a) Organizing, promoting or selling any abusive tax shelter, plan or arrangement that advises or encourages taxpayers to attempt to violate the internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities;
- (b) Engaging in activity subject to penalty under I.R.C. § 6700, including selling, organizing or assisting in the organization of a partnership, other entity, any investment plan or arrangement, or other plan or arrangement about which the defendant has made a statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by reason of holding an interest in the entity or participating in the plan or arrangement which the defendant knows or has reason to know is false or fraudulent as to a material matter;
- (c) Engaging in activity subject to penalty under I.R.C. § 6701, including advising with respect to, preparing, or assisting in the preparation of a document related to a material matter under the internal revenue laws that includes a position they know will result in an understatement of tax liability;
- (d) Engaging in activity subject to penalty under I.R.C. § 6694, including preparing federal tax returns that willfully or recklessly understate federal income-tax liability;
- (e) Creating and/or filing fraudulent Forms W-2 and 1099, or fraudulently altering such documents with the intention that they be filed with the IRS;
- (f) Making false representations that:
 - (1) married couples may transfer or assign their personal income and assets (*e.g.*, personal residence) to a sham partnership, converting the income to business income and the personal expenses to business expenses, thereby reducing or eliminating their income tax liability;

(2) personal expenses can be paid by a partnership in order to obtain tax benefits unavailable to others;

(3) persons may transfer an intangible asset based on their work experience to a sham partnership, amortize the asset to cause a loss to the partnership, and claim that loss on their individual income-tax returns;

(4) employment taxes can be eliminated or deferred by having wages paid to a sham entity;

- (g) Selling or organizing any type of partnership, “wealth management company,” corporation, trust, limited liability company, or any arrangement of business entities which advocates non-compliance with the income tax laws or tax evasion, misrepresents tax savings realized by using the arrangement, encourages the fraudulent characterization of personal expenses as business expenses, or conceals the receipt of income;
- (h) Preparing or assisting in the preparation of federal income-tax returns for any other person or entity;
- (i) Engaging in any other activity subject to penalty under I.R.C. §§ 6700, 6701 or 6694; and
- (j) Engaging in other conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

E. That this Court, pursuant to I.R.C. § 7402(a), enter a permanent injunction requiring defendants, within 30 days of the Court’s injunction order, to provide to the United States the names, addresses, and social security numbers or tax identification numbers of all persons to whom they have given or sold, directly or indirectly, the abusive tax program described in this Complaint;

F. That this Court, pursuant to I.R.C. § 7402(a), enter a permanent injunction requiring Daniel Fisher, Brenda Meyers-Fisher, EOTL Systems, Inc., and Tax Dynamix to contact, by means of a letter to be approved by the Court, all persons to whom they have given or sold, directly or indirectly, the abusive tax program described in this Complaint, and inform them of

the Court's findings concerning the falsity of defendants' representations, attaching a copy of the permanent injunction against defendants and their organizations, and to file with the Court, within thirty days of the date they are served with this injunction order, a certification that they have done so;

G. That this Court, pursuant to I.R.C. §§ 7402(a) enter an injunction prohibiting Daniel Fisher from representing before the IRS any persons to whom he has given or sold, directly or indirectly, the abusive tax scheme described in this complaint, and to enjoin him from encouraging or abetting non-cooperation with the IRS during the examination of those persons' returns;


H. That this Court order that the United States may engage in post-judgment discovery to ensure compliance with the permanent injunction;

I. That this Court shall retain jurisdiction over this action for purpose of implementing and enforcing the final judgment and all additional decrees and orders necessary and appropriate to the public interest; and

J. That this Court grant the United States such other and further relief, including its costs, as is just and equitable.

Respectfully submitted,

JANE J. BOYLE
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